

Larry Mitchell, Todd Everts, Stephen Maly, the LSD editors, and Kevin Hayes for their outstanding work in producing these award-winning publications.

## A FOND FAREWELL TO BETH FURBUSH

Beth Furbush, the Legislature's longtime librarian, succumbed to cancer on Saturday, August 18, 2001. Beth had joined the Legislative Council staff -- the predecessor to the Legislative Services Division -- in August 1989.

In recent years she had won recognition from several associations, including the national Special Librarians' Association, and this year was the 2001 recipient of the Legislative Staff Achievement Award granted by the Legislative Research Librarians Staff Section of the National Conference of State Legislatures. In making the award, her NCSL colleagues wrote this about Beth: "Considering Beth's exemplary support to the Montana Legislature by turning its library into the Legislative Reference Center and her contributions to the LRL Section, that she would receive the Legislative Staff Achievement Award seems a natural recognition of her persistence in expanding access to information in contemporary format and in advancing the profession of legislative librarianship."

In our own experience, she provided consistently outstanding services to staff, legislators, and a wider public through her dedication to her profession, her personal commitment to quality, and her sincere desire to accommodate her colleagues and library patrons. Her legacy will endure through the Legislative Library and Reference Center and, most of all, she will be fondly remembered by all those who knew her.

## LAW AND JUSTICE COMMITTEE

Committee Meets in August..The Law and Justice Interim Committee (LJIC or Committee) held its first meeting of the 2001-02 interim on August 3, 2001, in Helena. Rep. Gail Gutsche was elected chair and Senator Duane Grimes was elected vice chair.

Throughout the day, the Committee heard overview presentations from a number of people, including:

- Justice Jim Rice, representing the of the Montana Supreme Court, who commented on a few selected matters being considered and implemented within the Judiciary;
- Mike McGrath, Montana Attorney General, who reported on the contract for the "dial up" system for electronic gambling machines;
- Bill Slaughter, Director, Department of Corrections, who discussed the inmate population within the Department of Corrections and changes in the population;
- Lisa Smith, Acting Administrator, Montana Supreme Court, who commented

# THE INTERIM

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## LSD STAFF RECEIVES RECOGNITION

The National Conference of State Legislatures recognized several Legislative Services Division staff members for their outstanding contributions to policy analysis. Three LSD documents received a 2001 Notable Documents Award in the public policy category.

The Environmental Quality Council conducted a study of eminent domain in Montana under HJR 34 (1999). The study examined the implementation and adequacy of existing eminent domain laws and made recommendations to revise certain elements of existing law. As part of the study, the Council developed a handbook, *Eminent Domain in Montana*, to help Montana's policy makers and citizens better understand eminent domain law.

The Environmental Quality Council also undertook a comprehensive review of the Montana Environmental Policy Act. SJR 18 directed the Council to determine whether the implementation of MEPA is achieving its intended purpose and to consider a broad range of MEPA issues. The Council made several recommendations that are contained in *Improving the Montana Environmental Policy Act (MEPA) Process*.

The annual report of the Transition Advisory Committee, *The Shock of the New: Changes in the Generation, Transmission, and Distribution of Electricity in Montana*, analyzed the progress and problems of electrical energy restructuring in Montana.

Each of the publications was commended as "innovative in providing substantive information on a contemporary issue of interest to legislatures." Congratulations to Krista Lee Evans, Gordy Higgins, Greg Petesch, Maureen Theisen,

on the transitions being brought about by the passage of SB 176 (2001) that revises laws related to district courts, including the transfer of certain district court costs to the Supreme Court;

- Ted Clack, Office of the Supreme Court Administrator, who supplied information on a grant received by the Office for further examining the benefits and detractions of implementing a judicial education system project; and
- Gordon Morris, Executive Director, Montana Association of Counties, who commented on counties' commitment to ensuring the success of district court assumption under SB 176 and reforming the state-local fiscal relationship under HB 124

Next Meeting in October... The next meeting of the Committee is scheduled for Friday, October 12, in Helena. A primary topic of discussion will be Committee review, revision, and adoption of a study plan and work schedule. Other topics may include further investigation of the demographics of the Corrections population (from probation to prison to prerelease to parole), a communication from the Office of the Legislative Auditor regarding data collection through the Office of the Supreme Court Clerk, issues identified by the Supreme Court, and state assumption of certain district court costs under SB 176.

An agenda will be posted on the Committee's website at least 1 week prior to the meeting date (log on to <http://leg.mt.gov/> then follow the hot links).

For further information, contact Dave Bohyer, LSD Research Director, at (406) 444-3064 or by e-mail at [dbohyer@mt.gov](mailto:dbohyer@mt.gov).

## LEGISLATIVE SERVICES DIVISION WELCOMES NEW LIBRARIAN

Ms. Lisa Mecklenberg Jackson has been selected as our new Legislative Librarian to succeed our long-time colleague and friend Beth Furbush.

Lisa's qualifications for the job are impressive, to say the least. Lisa earned a B.A. in English (Concordia College, 1988); a J.D. (University of North Dakota, 1996), and a Master of Library and Information Science (University of Washington, 1997), which includes a certificate in law librarianship.

For the past four years, Lisa has been the Electronic Services Librarian at the state Law Library of Montana. There, she helped to provide many of the services that are offered by the Law Library and she was responsible for a variety of tasks and functions, including:

- establishing and maintaining a statewide network of legal information products;
- helping to select and maintain the Law Library's computer hardware and software;

- redesigning and keeping current the Law Library's Web page; and
- providing legal reference assistance to judges, lawyers, and the public.

Prior to joining the Law Library staff, Lisa also worked at the UW School of Library Science, the King County Law Library in Seattle, and the UND Thormodsgard Law Library. She was also a law clerk for a private attorney and a news editor and journalist for a weekly, upper-Midwestern newspaper.

Lisa is a member of numerous associations, a small sample of which includes:

- the State Bar Associations of Montana, Minnesota, and North Dakota;
- the American Association of Law Librarians;
- the Montana Library Association (chair of the Bylaws Committee and of the Academic and Special Libraries Division); and
- the Western Pacific Chapter of Law Librarians.

Lisa will join the LSD staff on September 4. She is looking forward to the new challenge and environment and is eager to assist all of the Library's clients. Please plan to take time to stop by her office in the Library -- on the East Garden Level in the Capitol -- and welcome her to the Legislative Branch.

## ECONOMIC AFFAIRS COMMITTEE

Committee to Meet in September... The Economic Affairs Interim Committee will meet on Friday, September 7, 2001, in Room 102 of the state Capitol. Sen. Dale Mahlum has tentatively scheduled to meeting to begin at 10:00 a.m. Next month's issue of **THE INTERIM** will have a detailed account of the Committee's activities.

Health Care Subcommittee Meets in August... The Joint Subcommittee on Health Care and Health Insurance (SJR 22) met in Helena on August 30, to gather the comments and perspectives of a wide variety of stakeholders. The meeting was designed to assist Subcommittee members in identifying common themes and study priorities for the remainder of the interim. The next issue of **THE INTERIM** will discuss the highlights of the meeting as well as the key areas the Subcommittee will focus on for the next 12 months.

If you have questions about either the Economic Affairs Committee or the SJR 22 Subcommittee, please contact Gordy Higgins at 444-3064, or by e-mail at [gohiggins@mt.gov](mailto:gohiggins@mt.gov). The Committee's website contains additional information. The page can be found at <http://www.leg.mt.gov> and following the links to the Economic Affairs Committee or by going directly to: [http://leg.mt.gov/Interim\\_Committees/Economic\\_Affairs/index.htm](http://leg.mt.gov/Interim_Committees/Economic_Affairs/index.htm)

## DISTRICTING AND APPORTIONMENT COMMITTEE

Public Hearing Postponed...The first public hearings for northcentral and central Montana that were tentatively scheduled for September 2001, have been postponed until further notice.

Staff is continuing information-gathering visits around the state to meet with county Clerk and Recorders, central committee representatives, legislators, tribal representatives, and others who are interested in receiving and sharing information about the potential new districts. Staff will prepare numerous options for Commission consideration and the proposals will be presented at regional public hearings.

For more information or to be placed on the Commission's interested persons list, please contact Susan Byorth Fox at the Legislative Services Division at (406) 444-3597 or at [sfox@mt.gov](mailto:sfox@mt.gov).

## REVENUE AND TRANSPORTATION COMMITTEE

All the Leaves Are Brown...By the time the Revenue and Transportation Interim Committee (RTIC) gathers in Helena on Thursday and Friday, September 13 and 14 in Room 102 of the Capitol building, the unmistakable signs of fall will be upon us: the days will be noticeably shorter, the leaves will be sporting their golden hues, woodland animals will be busy amassing a winter supply of food, the constellation Cassiopeia will be bright in the night sky ... and the SJR 21 study of the taxation of agricultural land will be underway.

At its June meeting, RTIC members expressed their reluctance to assign the SJR 21 study to a subcommittee, maintaining that the importance of the issues warranted full committee involvement and attention. So, just what are the issues?

They are numerous and complex but they are nicely introduced in the eight statements comprising SJR 21's preamble.

1. Agricultural land is increasingly being taken out of production for development and other nonagricultural purposes and is thereby becoming unavailable for agricultural production.
2. The Montana Legislature has long recognized that speculative land purchases and the encroachment of rural subdivisions has contributed, in part, to agricultural land being taken out of production.

3. Existing property tax laws may have the unintended consequence of taxing certain agricultural land at a higher effective tax rate than rural nonagricultural land.
4. Many large and small tracts of land qualify as agricultural land regardless of the use of the land, which may result in a shifting of tax burden to bona fide agricultural land.
5. The current property taxation of bona fide agricultural land and of rural nonagricultural land may contribute, in part, to agricultural land being taken out of production.
6. The Montana Legislature's goal is to maintain and encourage agricultural production as a viable component of the state's economy.
7. The Montana Legislature has consistently tried to achieve the goal of a fair, balanced, and equitable tax policy for rural land and agricultural land.
8. That goal has not been achieved and, therefore, a systematic study of the taxation of all rural land is appropriate.

Of course, these statements barely being to skim the surface of all that must be considered when tackling a study involving agriculture and property taxation. Montana has been dealing with one aspect or another of property taxation since 1864 when the first territorial legislature met in the shelter of a dirt-roofed cabin (no copper domes back then) in Bannack.

Another indication of the complexity of this subject is that taxation of agricultural land has been a problem in most states where agriculture figures prominently. These states' experiences and approaches should provide valuable information as the SJR 21 study moves forward. RTIC staff will present a study plan at the September meeting and collect Committee member comments and suggestions on how to proceed.

SJR 21 is just one of many items scheduled for Committee discussion at the day-and-a-half September meeting, beginning around 1 p.m. on Thursday and adjourning Friday afternoon. The agenda is taking shape and will be sent to individuals on the Committee's mailing list as the meeting date draws nearer. For more information on RTIC or its September meeting agenda, contact Leanne Kurtz, Committee staff, at [lekurtz@mt.gov](mailto:lekurtz@mt.gov) or at 444-3064. Also, check out the web site, now up and running. The web site may be accessed at <http://leg.mt.gov> and clicking on the 2001/2002 Interim and then clicking on Revenue and Taxation Committee or by going directly to

[http://leg.mt.gov/Interim\\_Committees/Revenue\\_Transportation/index.htm](http://leg.mt.gov/Interim_Committees/Revenue_Transportation/index.htm).

## STATE-TRIBAL RELATIONS COMMITTEE

Committee Organizes for Interim... The State-Tribal Relations Committee met August 2 to organize for the upcoming interim. Sen. Chris Christiaens was elected chair and Rep. Rick Ripley was elected vice chair.

The Committee heard presentations from Bruce Meyers, Coordinator of Indian Affairs, Jonathan Windy Boy, Montana-Wyoming Tribal Leaders' Council, Susan Cottingham, Reserved Water Rights Compact Commission, and Bill Slaughter, Department of Corrections.

New Coordinator Introduced... Bruce Meyers, newly-appointed Coordinator of Indian Affairs, introduced himself to the Committee and gave a report on Governor Martz's recent visits to Montana's Indian reservations. The visits were very well received. It was the first time that a Governor had made a concerted effort to visit all seven of the reservations. The Governor is making plans to host all of the tribes in Helena in conjunction with the Helena Indian Alliance Pow Wow, tentatively scheduled for September 28. While Governor Martz has concerns about making the Coordinator a member of the Governor's cabinet, she assured the tribes that the Coordinator would have direct access to her, and she is developing a protocol for how the Coordinator will interface with the Cabinet.

With regard to the Indian Economic Development Commission established by the 1999 Legislature, Mr. Meyers said that the terms of the members of the Commission have expired, and the tribes need to reappoint members. Because of the difficulties the Coordinator's Office has had in hiring employees for the Commission, the work may be contracted out. The draft assessment of economic conditions on reservations has been completed and is under review by the tribes. The final report should be issued in late August or early September.

In addition to economic development, other issues that the Governor and the Coordinator are interested in pursuing are welfare reform, gaming, water compacts, state-tribal communications, and tribal employment rights contracts with the Department of Transportation.

Report From Tribal Leaders' Council... Jonathan Windy Boy, Chairman of the Montana-Wyoming Tribal Leaders' Council, spoke to the Committee on the work of the Council and some of the issues that the Council is pursuing. He specifically discussed the reauthorization of the federal welfare program. Tribes are very concerned that the reauthorization will result in even greater emphasis on moving welfare recipients into jobs. While the tribes support jobs over welfare, their concern stems from the severe lack of jobs on reservations and the remoteness of reservations from urban centers

where there are jobs. Fort Belknap and the Confederated Salish and Kootenai are operating their own welfare programs independent of the state. Rocky Boy, Blackfeet, and Crow are forming a welfare consortium and are negotiating a memorandum of understanding with the state.

Mr. Windy Boy also suggested that any state laws that affect tribes should be reviewed and, if necessary, revised in cooperation with the tribes. Any future legislation affecting tribes should be discussed with the tribes before enactment. There is also concern among tribes that state contracts require that the tribes waive their sovereignty. If tribes must waive their sovereignty, then so should the state.

Sen. Christiaens asked Mr. Windy Boy to come back to future Committee meetings to continue this dialogue and to seek solutions to some of the problems Mr. Windy Boy identified in his presentation.

Water Compacts Discussed... Susan Cottingham, Reserved Water Rights Compact Commission, gave the Committee an in-depth history of the Commission and the current status of the tribal compacts. The procedure for approving a water compact is negotiations with the tribe, ratification by the Legislature, approval by Congress, and approval by the State Water Court. The only compact that has been approved is the Northern Cheyenne Compact. The compacts with Fort Peck, Rocky Boy, and Crow are awaiting approval from the State Water Court. The Fort Belknap compact is currently before Congress. Negotiations with Blackfeet and Confederated Salish and Kootenai are just beginning.

Dialogue with Department of Corrections... Bill Slaughter, Director of the Department of Corrections, engaged the Committee in an in-depth discussion of correctional issues in general and American Indian correctional issues in particular. Mr. Slaughter is working on appointing a Native American liaison within the Department. He is also working to form a departmental advisory council made up of legislators and interested persons that would include Native American members. He has met with the Native American Inmate Council at Montana State Prison to discuss specific issues and will continue to meet with them from time to time. The Department has applied for a grant to build a pre-release center on an Indian reservation. He would like to work with the Committee in selecting the reservation and in seeking assistance from the tribes. Mr. Slaughter recognized that insensitivity to Indian culture exists within the Montana correctional system. To address this problem, he is reintroducing a cultural sensitivity component to the Department's training program.

Committee Looks at Interim Work Plan... After much discussion about an interim work plan, the Committee decided to:

- ? update the *Tribal Nations of Montana Handbook* to include the new Census information, reflect recent court decisions, and add a section on water compacts;
- ? schedule a visit to the Rocky Boy's Reservation in late September;

- ? move the proposed February 2002 meeting date to early January 2002;
- ? schedule lunch at the Helena Pre-Release Center for the January meeting;
- ? pursue the issue of welfare reform with reports from the Department of Public Health and Human Services and from the Children, Families, Health, and Human Services Committee;
- ? continue monitoring the work of the State-Tribal Economic Development Commission; and
- ? send prioritized suggestions for other study topics to Committee staff for future meetings.

Visit to Rocky Boy's Reservation... Committee staff is currently working on scheduling a Committee visit to the Rocky Boy's Reservation in late September. At this time, no specific plans have been made.

Online Information Available Soon... Committee staff is currently working on the Committee's webpage, which should be up and running by September 1. Meeting agendas and minutes, staff reports, and other pertinent information will soon be available online at the following address: <http://www.leg.mt.gov>. Click on "2001/2002 Interim" and then click on "State-Tribal Relations" Committee.

For more information about the Committee or to be placed on the mailing list, please contact Connie Erickson at (406)444-3064 or at <[cerickson@mt.gov](mailto:cerickson@mt.gov)>.

## ENVIRONMENTAL QUALITY COUNCIL

Environmental Quality Council. . . The EQC will meet September 10 and 11 in Colstrip, Montana. Following subcommittee meetings the morning of September 10, the EQC will tour the Colstrip and Decker areas. The Council will visit the Colstrip power generation facility, a coal mine, and coal bed methane development areas. Subcommittee activities are set out below.

Council and subcommittee minutes from previous meetings, Council and subcommittee work plans, agendas, and press releases, may be found on the EQC web site at <http://leg.mt.gov/Services/lepo/index.htm>. If you have any questions, need additional information about the Council, or want to be placed on the EQC interested persons mailing list, contact the EQC office at (406) 444-3742 or [mtheisen@mt.gov](mailto:mtheisen@mt.gov).

Coal Bed Methane/Water Policy Subcommittee . . . The EQC appointed a Coal Bed Methane/Water Policy Subcommittee to address the EQC's statutory water policy

responsibilities and to examine coal bed methane issues. The Subcommittee is seeking public comment on the specific issues, goals, and tasks that it will include in its work plan for the interim. A draft work plan is available for public review and comment by accessing the Subcommittee website or by contacting Subcommittee staff as noted below.

Subcommittee members will hear public comments on the draft work plan and will adopt a final work plan at the September 10 meeting in Colstrip. Other topics on the Subcommittee agenda includes new agency rules related to water policy, recent court decisions regarding water policy issues, the status of the coal bed methane EIS, a recent agreement between Montana and Wyoming concerning coal bed methane development and water quality, and litigation related to coal bed methane production.

The draft work plan, agendas, and other information may be found at: <http://leg.mt.gov/services/lepo/subcommittees/wpsub.htm>. For more information, please contact the subcommittee staff:

- Water Policy -- Krista Lee Evans at (406) 444-3957 or by e-mail at [klee@mt.gov](mailto:klee@mt.gov); or
- Coal Bed Methane -- Mary Vandembosch at (406) 444-5367 or by e-mail at [mvandembosch@mt.gov](mailto:mvandembosch@mt.gov).

Agency Oversight/MEPA Subcommittee . . . The EQC appointed an Agency Oversight/MEPA Subcommittee. Staff and subcommittee members are working on an interim work plan that will be presented to the full EQC for consideration and approval at the September meeting. Specific study elements include:

- a review of the issues and options facing the state regarding the management of sage grouse given regional concerns about decreasing bird populations and a potential management response that may include the federal Endangered Species Act;
- an analysis of state laws related to the remediation of contaminated sites with a particular focus on the Controlled Allocation of Liability Act and orphan share funding; and
- a review and analysis of the Montana Environmental Policy Act implementation following the 1999-2000 EQC study findings and recommendations and the 2001 legislative changes to MEPA.

For more information, contact Larry Mitchell at (406) 444-1352 or by e-mail at [lamitchell@mt.gov](mailto:lamitchell@mt.gov).

Energy Policy Subcommittee . . . The EQC appointed an Energy Policy

Subcommittee to address energy policy issues. Staff is preparing a draft work plan for the interim. The Subcommittee will discuss and refine the draft work plan at its meeting September 10 in Colstrip.

For more information contact Todd Everts at (406) 444-3747 or by e-mail at [teverts@mt.gov](mailto:teverts@mt.gov).

## STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

SJR 5 Veterans' Subcommittee Hears Testimony on Priority Issues....The Subcommittee on Veterans' Affairs held its first meeting August 6 and heard testimony from leaders of the state's veteran service organizations, including the Vietnam Veterans' of America, the American Legion, the Veterans' of Foreign Wars, the Disabled American Veterans, and the Military Order of the Purple Heart, among others. Testimony was substantive and detailed on many matters affecting Montana's more than 106,000 veterans and 140,000 eligible dependents. Minutes and exhibits from the meeting are available by contacting the Montana Legislative Services Division.

SJR 5 Veterans' Subcommittee Scheduled to Meet in September... The Subcommittee intends to travel to Miles City and Glendive for its next meeting, tentatively scheduled for September 26-28. Activities and agenda items planned for the meeting would include the following:

- a tour of the state's Eastern Montana Veterans' Cemetery in Miles City;
- a tour of the federal VA nursing home and clinic in Miles City;
- a tour of the state's veterans' nursing home in Glendive;
- a public hearing in Glendive;
- a staff report on the characteristics of Montana's veteran population; and
- a report on various models of other states veterans' service coordinators, ombudsman services, and veterans' affairs divisions.

First Meeting of the HJR 8 Voting Systems Subcommittee ... The HJR 8 Subcommittee on Voting Systems will meet Wednesday, September 5, beginning at 9:00 a.m. in Room 102 of the State Capitol. The agenda will cover:

- a review of legal issues raised during the last presidential election;
- an overview of the activities of other election reform task forces and study commissions;

- a report by the Office of the Secretary of State;
- testimony from selected county election administrators who will explain the use of punch cards, optical scan, and paper ballots;
- comments by the Montana League of Women Voters; and
- a review of the key study questions and research tasks to be accomplished by the Subcommittee.

Public meetings and more information... All meetings are open to the public. For more information, please contact Sheri Heffelfinger at 444-3064 or [sheffelfinger@mt.gov](mailto:sheffelfinger@mt.gov) or visit the Committee's website at <http://www.leg.mt.gov>. Click on 2001/2002 Interim and then click on "State Administration and Veterans' Affairs" Committee.

## LEGISLATIVE FINANCE COMMITTEE

Legislative Finance Committee to Meet October 5 and LFC subcommittees to Meet October 4... Although the agenda has not been set, major topics for the full Committee meeting include:

- a report on the financial status of the state general fund;
- a summary of the key provisions of the recently enacted federal tax reform legislation;
- an update on the gas tax;
- a review of the Department of Justice's dial-up gambling monitoring system, the Health Insurance Portability and Accountability Act (HIPAA), and the status of the HJR 1 mental health study;
- an update on the Department of Revenue's POINTS system; and
- a report on the implementation of temporary assistance to needy families (TANF).

Depending on the progress of the various subcommittees, there may be updates on the status of these interim studies: mental health managed care, local government dedicated revenues, health care and health insurance costs, and education funding. There may also be a report from the Revenue and Transportation Committee.

Look for a final agenda on the Legislative Fiscal Division website by September 24th. The meeting will be at the state Capitol, Room 102. Start times will be announced.

For more information, contact the Legislative Fiscal Division by e-mail at

cschenck@mt.gov or by telephone at (406) 444-2986.

## EDUCATION AND LOCAL GOVERNMENT COMMITTEE

Committee Holds Organizational Meeting...The Education and Local Government Committee held its first meeting of the interim on August 1 in Helena. Sen. Linda Nelson was elected chair while Rep. Joan Andersen was elected as vice chair. The Committee heard presentations from the Governor's Advisory Council on Public School Funding, the Montana Association of Counties, the Office of Public Instruction, the Office of the Commissioner of Higher Education, and the Legislative Fiscal Division.

K-12 Education Issues Take Center Stage...House Bill No. 625 directs the Governor and the Superintendent of Public Instruction to conduct a study of public school funding and to report their findings and recommendations to the Education and Local Government Committee by January 2002. The Committee will hold statewide public hearings on the report and make recommendations back to the Governor. The Governor has appointed an Advisory Council on Public School Funding to conduct the study. Members of the Advisory Council are:

- ? Jeff Hindoen, Governor's Office, Chair;
- ? Madalyn Quinlan, Office of Public Instruction, Vice Chair;
- ? Kirk Miller, Board of Public Education, Havre;
- ? Rachel Villieux, County Superintendent, Missoula;
- ? John McNeil, District Superintendent, Savage;
- ? Sandra Murie, District Superintendent, Rocky Boy;
- ? Geoff Feiss, Trustee, Helena;
- ? Dennis Burr, public member, Clancy; and
- ? Linda Tutvedt, parent, Kalispell.

The Advisory Council held its first meeting in July and will be meeting every month until January. The Advisory Council and the Committee will try to hold some joint meetings this fall.

The Advisory Council has established a website where meeting agendas and minutes, staff reports, and other pertinent information will be posted. The address for the website is [http://www2.mt.gov/budget/Ed\\_Committee](http://www2.mt.gov/budget/Ed_Committee).

Jim Standaert, Legislative Fiscal Division, reported on a seminar on school funding, sponsored by the Education Commission of the States, that he attended earlier this summer. Some of the issues that were raised at the seminar included the

impact of declining enrollments on school funding formulas, appropriate weights for funding elementary schools versus high schools, how to measure an adequate education, how to adjust for inflation and for geographical cost differences, and the cost of meeting accreditation standards. The information that Mr. Standaert gleaned from the seminar will be used in the school funding study.

Committee Considers Local Government Issues...Gordon Morris of the Montana Association of Counties spoke to the Committee about some of the legislation passed during the last session that affects local governments. He asked the Committee to monitor the implementation of some of this legislation, specifically:

- ? HB 124, or the "big bill";
- ? SB 339, state assumption of welfare programs;
- ? SB 176, transition to state assumption of District Court funding; and
- ? SJR 22, interim study of health care and health insurance costs.

The Committee agreed with Mr. Morris's suggestions to monitor each of these pieces of legislation as they are implemented by the appropriate state agencies.

Postsecondary Education Issues Discussed...Dr. Joyce Scott, Deputy Commissioner of Higher Education, spoke to the Committee about some of the issues being discussed by the Board of Regents. The Regents see the need for developing some outcome measures to address issues, such as efficiency, in the University System. The Regents are also aware of the burdens imposed on students by tuition increases and are working on proposals to mitigate the increases. Some of these proposals include investing more money in fee waivers, developing a differential tuition system, and creating rebate programs. The Regents are also interested in pursuing the proposal by Regent John Mercer to establish a Leadership College composed of legislators, educators, and business people.

Pam Joehler of the Legislative Fiscal Division provided the Committee with background information on the work of the Postsecondary Education Policy and Budget (PEPB) Subcommittee last interim. There are no postsecondary education studies this interim, but Ms. Joehler identified a number of issues that the full Committee or a subcommittee could focus on this interim. Some of those issues included:

- ? developing statewide public policy goals for postsecondary education in Montana and drafting legislation to incorporate those goals into law;
- ? identifying statewide higher education performance indicators that would serve as a basis for future public postsecondary education policy evaluation and discussion; and
- ? identifying University system performance indicators that would be

useful for future legislatures.

After some discussion, the Committee decided to not establish a PEPB Subcommittee at this time. The Committee did request that staff set up a meeting of the Committee with members of the Board of Regents to discuss higher education issues in general.

Education Profile Provides Interesting Information... Madalyn Quinlan, Office of Public Instruction (OPI), distributed copies of the *Montana Statewide Education Profile, Second Edition* to the members of the Committee. The Profile looks at Montana's public school system through a broad range of quality indicators. The indicators include:

- ? program offerings and courses;
- ? environment for learning;
- ? student achievement;
- ? school success;
- ? student services and activities;
- ? school finance;
- ? school staffing and teacher characteristics;
- ? student involvement in learning;
- ? school facilities; and
- ? background characteristics of students.

Ms. Quinlan gave the Committee an overview of the findings contained in the Profile while highlighting some selected areas, such as school finance and the status of American Indian students in Montana's public schools.

Copies of the Profile are available from OPI. The Profile is also available online at <http://www.metnet.mt.gov>.

Committee Discusses Interim Studies... Two interim studies have been assigned to the Committee: HJR 41 (school district territory transfers) and HJR 35 (prepaid tuition program for the Montana University System). The HJR 35 study will be conducted by staff as a research paper, and the findings will be presented to the Committee. Staff recommended that the HJR 41 study be assigned to a subcommittee or task force, similar to the task force that handled the out-of-district tuition issue last interim. However, in light of the possible changes to the school funding formula and because of the importance of the issue of school district territory transfers, the Committee voted to have the full Committee conduct the study.

School Funding Lawsuits On the Horizon... A school funding lawsuit has been filed by Conrad and Teresa Stroebe of Billings. Chris Tweeten, Attorney General's

Office, discussed the lawsuit with the Committee. The lawsuit claims that Montana's school funding formula is unconstitutional because it violates the equal protection, due process, and tax equalization clauses of the Montana Constitution. Taxpayers are being charged different mill levies based on the school district in which they happen to reside. Because the lawsuit is in the preliminary stages, Mr. Tweeten could not speculate on any sort of a timeline for resolving the issue.

A second school funding lawsuit is being considered by a group of school districts in northwestern Montana. This lawsuit would be based on the issue of the inadequacy of state funding for schools. The lawsuit is still in the discussion stages.

To Meet in October... The Committee will meet on Wednesday, October 3 in Room 137 of the Capitol Building. Tentative agenda items include a meeting with members of the Board of Regents, a presentation on Japanese education by Rep. Tom Facey, and a joint meeting with the Governor's Advisory Council on Public School Funding to hear a presentation from John Augenblick and John Myers, school financing experts who conduct studies across the states.

Online Information Available Soon... Committee staff is working on the Committee's webpage, which should be up and running by September 1. Meeting agendas and minutes, staff reports, and other pertinent information will soon be available online at the following address: <http://www.leg.mt.gov>. Click on "2001/2002 Interim" and then click on "Education and Local Government" Committee.

For more information about the Committee or to be placed on the mailing list, please contact Connie Erickson at (406) 444-3064 or at <[cerickson@mt.gov](mailto:cerickson@mt.gov)>.

## CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE

Committee Holds First Meeting... The Committee organized for the interim on August 9. Rep. Trudi Schmidt was elected chair and Sen. Duane Grimes was elected vice chair. The Committee received reports on the progress of study resolutions on:

- SJR 8 - privatization of foster care and adoption services;
- HJR 1 - study of mental health services; and
- SJR 22 - health care and health insurance costs.

The Committee also discussed its administrative rule review duties and monitoring duties of the of the Department of Public Health and Human Services. Staff of the Addictive and Mental Disorders Division, the Human and Community Services Division, and the Senior and Long-Term Care Division presented overviews of their



respective divisions.

Committee Appoints Members to Health Care Study...The following members were selected for the SJR 22 study of health care and health insurance costs: Rep. Bill Thomas, Rep. Bob Lawson, Rep. Trudi Schmidt, Rep. Michelle Lee, and Sen. Jerry O'Neil. Although assigned to the Economic Affairs Committee, the study will be conducted by a joint subcommittee consisting of members from the Economic Affairs Committee, this Committee, and the Legislative Finance Committee. The Subcommittee conducted a meeting for stakeholders August 30.

Next Meeting November 16...The DPHHS divisions on the agenda for the Nov. 16 meeting include the Quality Assurance Division, the Health Policy and Services Division, and the Child and Family Services Division. In addition to its regular duties, the Committee is especially concerned with the ramifications of the reductions in children's services in mental health and in smaller than requested appropriations for child protective services and will be tracking those programs. A study plan on the SJR 8 study of the privatization of foster care and adoptive services will also be presented.

Meeting materials are available on the Committee website and minutes of the last meeting will be available within a couple weeks. If you wish to be placed on the interested persons list, please contact Susan Byorth Fox, Research Analyst, at the Legislative Services Division at (406) 444-3597 or at [sfox@mt.gov](mailto:sfox@mt.gov).

## TRANSITION ADVISORY COMMITTEE

Energy Supply Update...The Transition Advisory Committee met August 23 to review the progress of energy supply arrangements around the state. Warren McConkey, manager of Flathead Electric Cooperative, told the Committee that the cooperative has agreed to a contract with PacifiCorp to purchase 75 megawatts of electricity at an average price of \$43 a megawatt hour over the next 5 years. McConkey noted that although the deal has the risk of being above market prices in the future, the cooperative is not subject to huge indexed prices and enjoys price stability over the term of the contract. Additional power will be obtained from the Bonneville Power Administration.

Bill Pascoe, MPC's vice president of energy supply, described the outlook of the company's energy portfolio beginning July 1, 2002. MPC must obtain approximately 1,150-1,200 megawatts of power plus a reasonable reserve for peak requirements. According to Pascoe, 50% of the energy supply will come from existing

in-state generation, 25% from new generation (e.g., wind and natural gas), and 25% from market purchases. In-state generation will include power from PPL Montana and from qualifying facilities. Pascoe noted that the proposed agreement that was announced in the penultimate day of the last session between MPC and PPL Montana for "unit-contingent" power is dead. However, negotiations with PPL for a new power contract will continue. Pascoe anticipates that the average price of electricity will rise from 6.6 cents a kilowatt hour to 8.5 cents, or about a 29% increase.

Several large industrial customers reported on their power supply contracts. These companies had been besieged by the recent increases in electrical energy prices. However, the signing of contracts has reduced the higher energy costs for most of them. For example Smurfit-Stone Container recently signed 5-year contracts for a large portion of their energy supply needs. These contracts, as well as energy from self-generation and the state power pool, have allowed the company to run an additional machine and recall laid-off workers. Golden Sunlight Mining Co., in a letter to the Committee, said that it has signed an energy contract that will keep the Jefferson County mine in operation through June 30, 2002, and perhaps until December 2002. Because of the contract, the mining company will not make a request for energy from the state power pool. Russ Ritter told the Committee that SB 390 allowed the copper mine to remain open until the large increases in energy prices forced a shutdown. The mine will remain closed until there is an improvement in copper prices. Several other representatives of the large industrial customers noted that soft markets for their products and other economic factors have impacted their operations.

Petition to Refer HB 474 to Voters...Rep. Michelle Lee, one of the sponsors of the petition to refer HB 474 to the Montanan electorate, and the Committee engaged in a lively discussion of the ramifications of submitting the legislation to a vote of the people.

Next Meeting...The next meeting of the Committee, scheduled for Sept. 20, will likely be rescheduled. Check the Committee's website (<http://www.leg.mt.gov>) and follow the links to the Committee's website) for additional details.

For more information about the Committee or to be put on the Committee mailing list, contact Jeff Martin, Legislative Services Division, at (406) 444-3595 or by e-mail at [jmartin@mt.gov](mailto:jmartin@mt.gov).

TIME AND TIDE

<u>Event</u>	<u>Days remaining</u>
Target date for completion of interim committee work (September 15, 2002)	380
General election (November 5, 2002)	431
58th Legislature convenes (January 6, 2003)	493

THE BACK PAGE

COAL BED METHANE

Packin' Power From the Paleocene in Powder River Country

Mary Vandenbosch, Resource Policy Analyst  
Legislative Services Division

INTRODUCTION

It hasn't been long since I first heard about coal bed methane. During the 1999 Legislative Session I was asked to prepare a single amendment exempting coal "bead" methane from certain provisions of a bill. The 2001 Montana Legislature considered 7 bills related to coal bed methane, and I drafted 15 sets of amendments. Things change. I now know how to spell "coal bed methane", and I've learned a few other things.

WHAT AND WHERE

Coal bed methane is a type of natural gas that is stored in coal beds. The gas was formed during the long process of converting buried plant material into coal and gas.

Twenty-four percent of the energy consumed in the U.S. in 2000 was natural gas.<sup>1</sup> Use of natural gas nationwide increased 22 percent during the last decade,<sup>2</sup> and this trend is projected to continue. Natural gas is the fastest growing energy source for electricity generation. Of the natural gas produced in the U.S., approximately 7.5 percent is now coal bed methane.<sup>3</sup>

<sup>1</sup>*U.S. Natural Gas Markets: Recent Trends and Prospects for the Future*, SR/OIAF/2001-02, Energy Information Administration, U.S. Department of Energy, Washington, D.C., May 2001, p. vii.

<sup>2</sup>*Ibid*, p. viii. Calculated from change in consumption between 1990 and 2000.

<sup>3</sup>"Coal-Bed Methane: Potential and Concerns," *USGS Fact Sheet FS-123-00*, U.S. Geological Survey, October 2000.

Natural gas is a "hot"<sup>4</sup> commodity, partly because of its clean reputation. Emissions of air pollutants and greenhouse gases that contribute to global warming from burning natural gas are lower than for other fossil fuels.

In Montana, the primary area of interest for production of coal bed methane is the Powder River Basin in the southeastern part of the state. Interest has also been expressed in potential coal bed methane development in Gallatin, Park, and Blaine Counties.

The Powder River Basin is one of the major regions producing coal bed methane in the U.S. The estimated quantity of recoverable coal bed methane reserves in the basin is 25 trillion cubic feet.<sup>5</sup> This is a little more than the nation's total consumption for 1 year.

Outside of Montana and Wyoming, major areas of coal bed methane production are the Uinta Basin in Utah, the San Juan Basin in New Mexico and Colorado, and the Black Warrior Basin in Alabama.

#### COAL BED METHANE DEVELOPMENT IN MONTANA

Interest in production of coal bed methane in the Powder River Basin of Montana and Wyoming has increased dramatically as a result of improved technology and the increase in demand for natural gas.

The Montana Board of Oil and Gas Conservation has issued current permits for 314 coal bed methane wells. This figure includes dry holes and plugged test wells. Of these, 239 wells are producing or shut-in (capable of producing).<sup>6</sup>

In June 2000, the Board signed a stipulation and settlement agreement with the Northern Plains Resource Council, Inc. The two parties agreed to a moratorium on the issuance of new permits pending completion of a statewide programmatic supplemental environmental impact statement (EIS). The settlement agreement allows

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<sup>4</sup>This stupid pun is intended.

<sup>5</sup>Rodney H. De Bruin, Robert M. Lyman, Richard W. Jones, and Lance W. Cook, "Coalbed Methane in Wyoming," *Information Pamphlet 7 (revised)*, Wyoming State Geological Survey, Laramie, Wyoming, 2001, Table 2.

<sup>6</sup>Montana Board of Oil and Gas Conservation database, July 31, 2001.

the Board to permit up to 200 new test wells statewide, subject to certain conditions. The Board has authority over drilling for coal bed methane only on private and state lands.

The federal Bureau of Land Management, the Montana Department of Environmental Quality, and the Montana Board of Oil and Gas Conservation are jointly preparing an EIS to analyze the impacts of proposed oil and gas development, including coal bed methane development. The agencies solicited public comment on the scope of the environmental review in January 2001. More than 300 sets of comments were received. A draft EIS is expected to be available in October 2001.

#### WHAT'S ALL THE FUSS?

Methane is a very simple chemical compound, composed of one carbon atom and four hydrogen atoms. In contrast, the issues surrounding coal bed methane are multifaceted and far more complex than can be covered in a short "Back Page" article. The following tidbits help to illustrate the complexity of the issue:

- According to the U.S. Environmental Protection Agency, methane is a greenhouse gas that is 21 times as potent as carbon dioxide and avoiding the release of methane to the atmosphere can contribute substantially to protection of the global environment. Consequently, the agency has established the Coalbed Methane Outreach Program to promote profitable recovery and use of coal mine methane.<sup>7</sup> However, burning methane (rather than releasing it directly to the atmosphere) adds considerably less carbon dioxide to the atmosphere than does the burning of coal, and production of methane from coal prior to mining reduces the amount of methane released to the atmosphere during the mining process.<sup>8</sup>
- The owner of the mineral rights for gas may benefit substantially from royalty payments. However, the surface owner may not own the mineral rights. Surface owners are entitled to compensation for damages to their property due to coal bed methane extraction.
- Concerns have been raised that severe erosion may result if large amounts

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<sup>7</sup>*Coalbed Methane Outreach Program*, EPA-430-F-99-008, U.S. Environmental Protection Agency, July 1999.

<sup>8</sup>U.S. Geological Survey.

of water are discharged from coal bed methane wells. However, industry officials have credited reservoirs used for storage of water from coal bed methane wells with mitigation of flood damage in the Gillette area in May 2001.

In a nutshell, there are benefits and costs and different ways of doing things. Although it is dangerous and difficult to simplify, some of the potential effects are highlighted below.

A study of the economic and social impacts of proposed development in the Powder River Basin of Montana was recently conducted by Anderson ZurMuehlen & Co. for the Montana Coalbed Natural Gas Alliance. Estimated economic benefits over the anticipated life of the project (22 years) totaled \$4.1 billion. The benefits estimated include wages, employee benefit payments, purchases of goods and services, royalties, and taxes.<sup>9</sup>

When the conversation turns to coal bed methane, water is a major theme. Forty percent of the comments received during the initial public involvement process for the EIS addressed water-related topics including ground water quality and quantity, surface water quality and availability, waste water disposal and discharge, water conservation, and water rights.

Coal bed methane production requires withdrawal of ground water in order to lower the pressure in the coal bed so methane can flow out of the coal. The water produced is usually saline. Once the water is withdrawn, it must be disposed of in some way. Potential discharge methods include discharging the water onto the land surface or into surface water, storage in evaporation ponds, use for stock or wildlife ponds, reinfiltration, treatment for various uses, and reinjection back into the aquifer.

Some Montanans have expressed concerns about possible impacts on water quality when water from coal bed methane wells is discharged into rivers or streams. The quality of water produced in association with coal bed methane wells, as well as the impact of any water discharged, will vary from location to location. In general, water produced directly from coal bed methane wells in Montana may be suitable for consumption by humans or livestock, but unusable for irrigation due to the elevated salinity and sodium adsorption ratio or SAR. Clay soils are more susceptible to

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<sup>9</sup>*Coalbed Methane Development, Powder River Basin of Montana: Economic and Social Impacts of Proposed Development*, Anderson ZurMuehlen & Co., P.C., June 1, 2001, p. 20.

adverse effects from water with a high sodium adsorption ratio. It should be noted that when water from coal bed methane wells is discharged into streams or rivers, it is mixed with the receiving waters.

The bulk of the coal bed methane production occurs in Wyoming, while Montana is positioned downstream. Officials from each state's environmental quality department have been working on an agreement for monitoring water quality to identify impacts from coal bed methane development in Montana. A tentative agreement has been reached for the Powder and Little Powder Rivers. The group also intends to address the Tongue River.

Water is scarce in southeastern Montana, and there are also concerns about water quantity and availability. The Montana Department of Natural Resources and Conservation noted that coal aquifers are often the only practical source of fresh water for domestic, stock, and agricultural uses in the Powder River Basin.<sup>10</sup> Coal bed methane development can provide benefits by making water available for stock ponds, wildlife ponds, and other uses.

Legislation approved by the 2001 Montana Legislature and signed by the Governor requires developers of coal bed methane wells to offer mitigation agreements to water right holders for ground water within 1 mile of coal bed methane wells or within one-half mile of wells that are adversely affected by coal bed methane wells. The agreement must provide for prompt supplementation or replacement of affected water resources.

A few of the other topics that Montanans have raised questions and concerns about include air quality, cultural resources, and property.

### THE MONTANA LEGISLATURE

The 2001 Montana Legislature considered seven pieces of legislation related to coal bed methane production. Four bills and a joint resolution were approved by the

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<sup>10</sup>"In the Matter of the Designation of the Powder River Basin Controlled Groundwater Area," *Final Order*, Montana Department of Natural Resources and Conservation, December 15, 1999.

Legislature and signed by Governor Martz.<sup>11</sup>

Wyoming legislative leaders invited their Montana counterparts to join them for a tour of coal bed methane facilities in May 2001. Representatives Bales, Branae, and Olson; Senators Beck, Cole, Pease, and Roush; and Lieutenant Governor Ohs traveled to Sheridan, Wyoming, to visit a variety of facilities and witness firsthand the various stages of coal bed methane production firsthand.

The Environmental Quality Council (EQC) has appointed a Subcommittee to address water policy and coal bed methane issues. EQC members are promptly diving into the topic. Following the September 10, 2001, EQC meeting in Colstrip, members will tour energy and coal bed methane facilities.

House Joint Resolution No. 27 requested that the EQC provide oversight of the state's involvement in the preparation of the EIS. The Subcommittee will take on this responsibility and will adopt a work plan in September that details other activities.

#### FOR MORE INFORMATION

The information in this article represents only the tip of the coal seam. There are plenty of opportunities to learn more about coal bed methane development.

#### General Information and Links

Montana Department of Environmental Quality website :  
< <http://www.deq.mt.gov/coalbedmethane/index.asp>>

This website includes a wide variety of information about topics, including the status of coal bed methane in Montana, the EIS, environmental and economic issues, laws, regulations, permits, coal bed methane in Wyoming, press releases, public notices, news clippings, contact information, and links.

#### EQC Interim Activities and Legislation

Mary Vandenberg  
Resource Policy Analyst

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<sup>11</sup>A summary is available on the EQC's Coal Bed Methane & Water Policy Subcommittee website: <<http://leg.mt.gov/services/lepo/subcommittees/wpsub.htm>>. Look under "Staff Reports"

Legislative Environmental Policy Office  
P.O. Box 201704  
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<<http://leg.mt.gov/services/lepo/subcommittees/wpsub.htm>>

#### Environmental Impact Statement

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## INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,  
 ALL ROOM DESIGNATIONS ARE IN THE CAPITOL BUILDING.

### SEPTEMBER

September 3, Labor Day, holiday

September 5, State Administration and Veterans' Affairs' HJR 8 Subcommittee on Voting Systems, Room 102, 9:00 a.m.

September 7, Economic Affairs Committee, Room 102, 10 a.m.

September 10-11, Environmental Quality Council, Colstrip

September 13-14, Revenue and Transportation Committee, Room 102, 1 p.m. Sept. 13

September 20-21, Legislative Council, Room 102

September 26-28 (tentative), State Administration and Veterans' Affairs' HJR 5 Subcommittee, Miles City and Glendive

### OCTOBER

October 3, Education and Local Government Committee

October 4, Legislative Finance Committee Subcommittees

October 5, Legislative Finance Committee, Room 102

October 12, Law and Justice Interim Committee, Room 102

October 18, Legislative Audit Committee, Room 137

NOVEMBER

November 9, Montana Dental Access Summit II

November 16, Children, Families, Health, and Human Services Committee